

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 19**

**NEW SEASONS MARKET LLC**

**And**

**Cases 19-CA-296393  
19-CA-297405  
19-CA-300030**

**UNITED FOOD AND COMMERCIAL  
WORKERS LOCAL 555**

**ANSWER TO CONSOLIDATED COMPLAINT BY  
NEW SEASONS MARKET LLC**

For its Answer to the Consolidated Complaint (“Complaint”) in the above-referenced matter and in response to the referenced charges filed by United Food and Commercial Workers, Local 555 (“the Union”), New Seasons Market LLC (“Respondent”), states as follows, with each number and letter below corresponding to the number and letter in the Complaint:

Respondent responds to the unnumbered paragraphs on page 1 of the Complaint by stating that these are introductory paragraphs regarding the Complaint and do not require an admission or denial from Respondent. Respondent further answers by stating that any allegation contained in these paragraphs meant to suggest liability on the part of the Respondent is denied. Respondent specifically denies that it has engaged in or is engaging in unfair labor practices as set forth in the National Labor Relations Act, 29 U.S.C. § 151, *et seq.* (the “Act”).

**Paragraph 1.**

(a) Respondent denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 1(a) of the Complaint, except that Respondent admits being served with the referenced charge and that the unfair labor practice charge speaks for itself as to the case number, date filed and date served, but Respondent denies that it has engaged in or is engaging in unfair labor practices as set forth in the National Labor Relations Act, 29 U.S.C. § 151, *et seq.*

(b) Respondent denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 1(b) of the Complaint, except that Respondent admits being served with the referenced charge and that the unfair labor practice charge speaks for itself as to the case number, date filed and date served, but Respondent denies that it has engaged in or is engaging in unfair labor practices as set forth in the National Labor Relations Act, 29 U.S.C. § 151, *et seq.*

(c) Respondent denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 1(c) of the Complaint, except that Respondent admits being served with the referenced charge and that the unfair labor practice charge speaks for itself as to the case number, date filed and date served, but Respondent denies that it has engaged in or is engaging in unfair labor practices as set forth in the National Labor Relations Act, 29 U.S.C. § 151, *et seq.*

(d) Respondent denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 1(d) of the Complaint, except that Respondent admits being served with the referenced charge and that the unfair labor practice charge speaks for itself as to the case number, date filed and date served, but Respondent denies that it has engaged in or is engaging in unfair labor practices as set forth in the National Labor Relations Act, 29 U.S.C. § 151, *et seq.*

(e) Respondent denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 1(e) of the Complaint, except that Respondent admits being served with the referenced charge and that the unfair labor practice charge speaks for itself as to the case number, date filed and date served, but Respondent denies that it has engaged in or is engaging in unfair labor practices as set forth in the National Labor Relations Act, 29 U.S.C. § 151, *et seq.*

(f) Respondent denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 1(f) of the Complaint, except that Respondent admits being served with the referenced charge and that the unfair labor practice charge speaks for itself as to

the case number, date filed and date served, but Respondent denies that it has engaged in or is engaging in unfair labor practices as set forth in the National Labor Relations Act, 29 U.S.C. § 151, *et seq.*

**Paragraph 2.**

- (a) Respondent admits the allegations set forth in paragraph 2(a) of the Complaint.
- (b) Respondent admits the allegations set forth in paragraph 2(b) of the Complaint.
- (c) Respondent admits the allegations set forth in paragraph 2(c) of the Complaint.
- (d) Respondent admits the allegations set forth in paragraph 2(d) of the Complaint.

**Paragraph 3.**

Respondent admits that the Union has been a labor organization within the meaning of Section 2(5) of the Act.

**Paragraph 4.**

In response to the allegations set forth in paragraph 4 of the Complaint, Respondent admits the following individuals have held the positions set forth opposite their respective names, and Respondent admits the supervisory and/or agent status of the following:

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

To the extent paragraph 4 of the Complaint contains factual allegations other than those specified and expressly admitted above, Respondent denies those allegations.

**Paragraph 5.**

- (a) Respondent denies the allegations in Paragraph 5(a) of the Complaint.
- (b) Respondent denies the allegations in Paragraph 5(b) of the Complaint.

- (c) Respondent denies the allegations in Paragraph 5(c) of the Complaint.
- (d) Respondent denies the allegations in Paragraph 5(d) of the Complaint.
- (e) Respondent denies the allegations in Paragraph 5(e) of the Complaint.
- (f) Respondent denies the allegations in Paragraph 5(f) of the Complaint.
- (g) Respondent denies the allegations in Paragraph 5(g) of the Complaint.

**Paragraph 6.**

Respondent denies the allegations in Paragraph 6 of the Complaint.

**Paragraph 7.**

Respondent denies the allegations in Paragraph 7 of the Complaint.

In response to the allegations and demands for relief set forth in the unnumbered paragraphs and lettered subparagraphs (a) – (g) under paragraph 7 on pages 5 and 6 of the Complaint and above the heading “ANSWER REQUIREMENT” on page 6 of the Complaint, Respondent denies all allegations therein and denies that the General Counsel is entitled to any relief for any allegation in the Complaint.

Respondent responds to the unnumbered and unlettered paragraphs under the heading “ANSWER REQUIREMENT” on pages 6 and 7 of the Complaint by stating that these are informational paragraphs and do not require an admission or denial from Respondent.

Respondent further responds to each and every numbered, lettered, unnumbered and unlettered paragraph and subparagraph of the Complaint by stating that any allegations not expressly admitted, explained or denied are denied generally, put in issue, and strict proof is required.

**AFFIRMATIVE DEFENSES**

1. Some or all of the claims in the Complaint fail to the extent that they do not state a claim for which relief may be granted under the Act.
2. Some or all of the claims against Respondent fail because they are barred by the limitations period set forth in Section 10(b) of the Act.

3. With respect to the factual allegations raised in the Complaint, Respondent acted properly and lawfully under the Act. Accordingly, Respondent denies that any relief is warranted, including the relief sought by the General Counsel in the Complaint.

4. Some or all of the claims against Respondent fail because Respondent has effectively repudiated the alleged conduct in accordance with applicable NLRB law.

5. Some or all of the claims against Respondent fail because the General Counsel is not entitled to the relief requested. Further, some or all of the requests for relief sought against Respondent are, in addition to being unavailable because Respondent did not commit any violations of the Act, beyond the scope permitted by the Act and constitute improper requests for relief or are punitive requests for relief not permitted by the Act.

6. Some or all of the relief sought by the National Labor Relations Board is beyond that which is available to the National Labor Relations Board, in excess of the National Labor Relations Board's authority.

7. All claims are barred and the Complaint should be dismissed if the Board cannot establish jurisdiction, fails to state a viable claim or the Complaint allegations are outside the scope of, and not closely related to, the relevant unfair labor practice charges and amended charges forming the basis for the Complaint.

8. The Complaint contains allegations that are barred by the equitable doctrines of laches, waiver, estoppel, and unclean hands.

9. Some or all of the claims against Respondent fail because they are not identified with sufficient particularity in the Complaint and were never identified with sufficient particularity during the investigation of the charges and amended charges; and, therefore, Respondent neither had nor has adequate notice of the claims to respond to them, resulting in prejudice to Respondent and a denial of due process.

10. Respondent denies it has engaged in or is engaging in any unfair labor practices both generally and as specifically alleged in the Complaint, and demands strict proof thereof.

11. Respondent alleges that, assuming, *arguendo*, any allegation in the Complaint is found to be a violation, it is a *de minimis* violation that does not warrant the issuance of a remedial order.

12. The determination to issue the Complaint was made without affording Respondent a fair and equal opportunity to present evidence responding to the Charging Party's claims, and as a result without such evidence, thus depriving Respondent of the due process to which it is entitled.

13. The purported violations of Section 8(a)(1) alleged in the Complaint are barred to the extent that they conflict with, are contrary to, and precluded by the free speech rights Respondent has under Section 8(c) of the Act.

14. Assuming, *arguendo*, any Complaint allegation is found to be a violation of the Act, a retroactive remedy would be a manifest injustice and denial of due process.

15. Any statement made by any of Respondent's supervisor's and/or agents fall within the ambit of Section 8(c) of the Act, and as such, neither constitutes nor can be used as evidence of an unfair labor practice.

16. The allegations in the Complaint are contrary to, precluded by, and violate the First Amendment rights of Respondent.

17. The allegations in the Complaint are directly contrary to long-settled Board law, violate Respondent's Constitutional rights, and have a clear chilling effect on Respondent's constitutional and statutory rights to communicate with its employees about unions including without limitation their protected right to refrain from supporting any union.

18. Respondent reserves the right to present additional defenses, affirmative or otherwise, during the course of these proceedings, as permitted by the Act and the Board's Rules and Regulations.

WHEREFORE, having fully responded to the Complaint in the above-captioned matter, Respondent denies that it engaged in any act that violated the Act. Respondent respectfully requests that the Complaint be dismissed in its entirety with prejudice and that Respondent have such other and further relief to which it may be entitled.

DATED this 19th day of January, 2023.

OGLETREE, DEAKINS, NASH, SMOAK &  
STEWART, P.C.

By /s/ Maria Anastas  
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